Remarks

The Examiner is thanked for the indication of allowable subject matter in claims 2, 3, 7-10, 15, 16, 18, and 19.

Reconsideration of this Application is respectfully requested.

Claims 1-20 are pending in the application, with claims 1 and 12 being the independent claims. No new matter has been entered based on these amendments.

Based on the following remarks, Applicant respectfully requests that the Examiner reconsider all outstanding rejections and that they be withdrawn.

Rejections under 35 U.S.C. § 103(a)

Claims 1, 4-6, 12-14, 17, and 20 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,636,066 to Takahashi ("Takahashi") in view of U.S. Patent No. 5,796,524 to Oomura ("Oomura").

Claims 1, 5, 6, 11-13, 17, and 20 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,636,066 to Takahashi ("Takahashi") in view of U.S. Published Patent Application No. 2002/0167734 to Schuster ("Schuster").

Applicant traverses these rejections.

Takahashi is specifically directed to an all-reflective element system so as to reduce the effects of attenuation and absorption when light of small wavelengths are used. In the background section of Takahashi, the patent discusses the problem with systems having transmissive optics for certain wavelengths of light, and the entire invention of Takahashi is directed to overcoming these problems. Thus, placing a beam splitter of either Oomura or Schuster into Takahashi would defeat the purpose of the invention, and destroy the teaching of the reference. Thus, because Takashi teaches away from using transmissive optics (e.g., a beam splitter), Takahashi is not properly combinable with either Oomura or Schuster under binding, relevant Federal Circuit precedent. *See Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve, Inc.*, 230 USPQ 416 (Fed. Cir. 1986) (holding a reference should be considered as a whole, and portions arguing against or teaching away from the claimed invention must be considered); *Gillette Co. v. S.C. Johnson & Sons, Inc.*, 919 F.2d 720, 724, 16 USPQ2d 1923, 1927

(Fed. Cir. 1990) (stating that the closest prior art reference "would likely discourage the art worker from attempting the substitution suggested by [the inventor/patentee].").

Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of claims 1 and 12. Also, at least based on their dependency from claims 1 and 12, claims 2-11 and 13-20 should be found allowable over the applied references.

Conclusion

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. Applicant believes that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

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